

Title 1

GENERAL LAWS AND CUSTOMS

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Chapter 01

GENERAL PROVISIONS

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1.0101 Citation.

This code shall be known as the American Samoa Code Annotated. It may be cited by title and section as follows — A.S.C.A.

History: 1961, PL 7-14, amd 1977, PL 15-2, amd 1980, PL 16-83 § 2.

Amendments: 1977 Changed citation style
1980 Changed citation style

1.0102 Effect of section headings.

The section headings in this Code are for the purpose of convenience only, and are not to be considered a part of any section, or as altering or affecting in any way the provisions of any section.

History: 1961, PL 7-14.

1.0103 Gender—Number.

Words used in the masculine gender include the feminine gender, the singular number includes the plural, and the plural, the singular.

History: 1961, PL 7-14.

1.0104 Oath.

“Oath” includes an affirmation.

History: 1961, PL 7-14.

1.0105 Person.

“Person” includes a partnership or other association, and a corporation, as well as a natural person.

History: 1961, PL 7-14.

1.0106 Grammatical interpretation.

Words are to be understood in their ordinary sense, except that words defined or explained are to be understood as so defined or explained.

History: 1961, PL 7-14.

1.0107 Government.

The word “government” means the American Samoa Government.

History: 1980, PL 16-60 § 1.

1.0108 Savings provision.

(a) No provision of this Code which repeals or supersedes any other provision of law shall affect the validity of any transaction which has occurred prior to the taking effect of the Code provision, or operate to impair the curative or legalizing effect of any statute heretofore enacted, or have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred prior to the taking effect of the Code provision. All offenses committed and all penalties or forfeitures incurred under any statute repealed or superseded by a provision of this Code may be prosecuted and punished in the same manner and with the same effect as if the statute relating thereto had not been repealed or superseded. Nothing in this Code may be so construed as to impair any vested right or valid obligation existing when it takes effect. No action or proceeding, civil or criminal, commenced before this Code takes effect may be affected by its provisions, but the proceedings thereunder must conform to the requirements of this Code as far as possible.

(b) All regulations in effect under law that is repealed or superseded by a provision of this Code continue in effect, to the extent they are not inconsistent with the Code, until new regulations are issued.

History: 1961, PL 7-14.

1.0109 Severability.

If any provision of any public law or section of this Code, or the application thereof to any person or circumstance is held invalid, such invalidity may not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of all public laws and of this Code are declared to be severable.

History: 1972, PL 12-52 § 1.

Chapter 02

APPLICABLE LAWS AND CUSTOMS

Sections:

1.0201 Laws applicable in American Samoa.

1.0202 Preservation of Samoan customs.

1.0201 Laws applicable in American Samoa.

The following are declared to be in full force and to have the effect of law in American Samoa:

- (1) the Constitution of American Samoa.
- (2) the parts of the Constitution of the United States of America and the laws of the United States of America as, by their own force, are in effect in American Samoa;
- (3) this Code, as amended from time to time and rules issued pursuant thereto;
- (4) so much of the common law of England as is suitable to conditions in American Samoa and not inconsistent with this section.
- (5) the provisions of the prior codes of American Samoa and other laws that are not inconsistent with the provisions of this Code, until such time as they are repealed or superseded.

History: 1961, PL 7-14.

Case Notes:

Contributory negligence was part of English Common Law before 1776 and has been thus incorporated as law applicable in American Samoa. Court will not substitute more equitable comparative negligence doctrine without mandate from Fono. *Manuma v. Lolotai*, ASR (1976).

Statute adopts common law of England as applied and modified by U S Courts at time statute adopted and since construed. RCAS 1.0101,3 *Tung v. Ah Sam*, 4 ASR 764 (1971).

An administrative rule adopted pursuant to the rulemaking process in the Administrative Procedure Act has the force and effect of law. A.S.C.A. §§ 1.0201(3), 4.1001-4.1010. *Bryant v. Southwest Marine of Samoa, Inc.*, 23 A.S.R.2d 55 (1992).

The common law of contracts applies in American Samoa unless it conflicts with a territorial statute or is unsuitable to local conditions. A.S.C.A. § 1.0201. *Development Bank v. Ilalio*, 5 A.S.R.2d 1 (1987).

Secured transactions in American Samoa are governed by common law principles except where those principles have been modified by statute or are otherwise inappropriate to local conditions. A.S.C.A. § 1.0201. *Development Bank v. Reed*, 5 A.S.R.2d 135 (1987).

1.0202 Preservation of Samoan customs.

The customs of the Samoan people not in conflict with the laws of American Samoa or the laws of the United States concerning American Samoa shall be preserved. The village, county, and district councils consisting of the hereditary chiefs and talking chiefs shall retain their own form or forms of meeting together to discuss affairs of the village, county, or district according to their own Samoan customs.

History: 1961, PL 7-14.

Case Notes:

The court is responsible for preserving the customs of the Samoan people. *Kaliopa v. Salao and Harris* 2 A.S.R. 2d I 1983}

Anyone living on communal land must perform tautua to senior matai. Pule over communal land always rests with senior matai of the Family. *Taufa'asau v. Mauga*. ASR (1979)

Matai may not be arbitrary in orders at eviction; good cause is required. Individual members of the family do not have undivided interest in communal family lands. *Kishi v. Lefeau*, ASR (1979).

Trial court can not give power to orally devised interest in parcel of communal land to "assignee", thus transforming a communal right into an undivided interest in the property. *Kishi v. Liufau*. ASR (1978). Acquisition of title to bush land by clearing on individual's own initiative, cultivating by him and occupation

by him is court recognized Samoan custom. Land becomes individually owned land. *Fanene v. Talio* ASR (1977).

Although Samoan custom requires family consultation before a sa'o conveys communal land, the court cannot impose this as an additional condition to such a conveyance absent statutory direction from the Fono. A.S.C.A. §§ 1.0202, 37.0201 et seq. *Vaimaona v. Tuitasi*, 18 A.S.R.2d 88 (1991).

When a conflict arises, Samoan custom must give way to the laws of the United States and American Samoa. A.S.C.A. § 1.0202. *Taeleifi v. Willis*, 21 A.S.R.2d 118 (1992).

Chapter 03

OFFICIAL SYMBOLS

Sections:

- 1.0301 Seal.**
- 1.0302 Motto.**
- 1.0303 Flower.**
- 1.0304 Plant.**
- 1.0305 Song.**

1.0301 Seal.

(a) The following figure as reproduced herein is the official seal of the government of American Samoa.

(b) No one may reproduce the seal on any item sold commercially without the consent of



the Government Secretary in writing.

History: 1973, PL 13-17.

1.0302 Motto.

The official motto of the Territory of American Samoa is designated as “Samoa—Muamua le Atua”.

History: 1973, PL 13-34.

1.0303 Flower.

The official flower of the Territory of American Samoa is designated as the “Paogo” (Ulafala).

History: 1973, PL 13-32.

1.0304 Plant.

The official plant of the Territory of American Samoa is designated as the “Ava”.

History: 1973, PL 13-29.

1.0305 Song.

The official song of the Territory of American Samoa is designated as “Amerika Samoa”.

History: 1973, PL 13-26.

Chapter 04

MATAI TITLE

Sections:

- 1.0401 Registration required—Closing of register.**
- 1.0402 Registering more than one matai title prohibited.**
- 1.0403 Qualifications for succession to title—Delegate to the U.S. House of Representatives and, staff members, dependents.**
- 1.0404 Eligibility to file claim or objection—Record of absent residents—Delegate to the U S. House of Representatives and staff members.**
- 1.0405 Filing written claim—Supporting documents.**
- 1.0406 Notice of claim.**
- 1.0407 Counterclaims and objections—Supporting documents.**
- 1.0408 Certificate of succession to issue if no counterclaim of objection is filed.**
- 1.0409 Disputed claims—Hearing—Determination—Certificate issued when.**
- 1.0410 Effective date of succession.**
- 1.0411 Removal of title for cause—Service of petition—Default—Selection of successor.**
- 1.0412 Removal of title after year’s absence—Procedure—Default.**
- 1.0413 Nonrecognition of titles improperly bestowed.**
- 1.0414 Violation—Penalty.**

1.0401 Registration required—Closing of register.

(a) Every matai in American Samoa must prior to 1 January 1969, register his title and designated name with the Territorial Registrar.

(b) The matai title register shall be closed as of 1 January 1969, and any matai title not registered by that date may not be registered.

(c) The matai title register must be kept as a part of the records of the Territorial Registrar.

History: 1961 PL 7-38; 1968, PL 10-61.

Case Notes:

Matai title not registered before 1 November 1932 should not be considered for registration since law required that all matai titles be registered. RCAS 6.0103, *Mailo v. Fuimaono*, 4 ASR 757 (1967).

Judgment that disputed tract was "communal land" of a family that was not a traditional Samoan family with a matai left open the question how family was to exercise rights of ownership under land statutes presuming the existence of a senior mata, since family was prohibited by statute from creating a new matai title. A.S.C.A. §§ 1.0401, 37.1502-03. *Willis v. Willis*, 4 ASR 2d 144 (1987).

Court deciding matai title disputes is not required to consider the views of the village, county or district councils except to the extent that they are evidence of facts that are relevant to issues properly before the court. A.S.C.A. § 1.0401 et seq. *In re Matai Title Sotoa*, 8 ASR 2d 10 (1988).

Village, county, and district councils have no power to veto a court decision, rendered after trial in accordance with statutory procedure, that a particular person is entitled to hold a matai title. A.S.C.A. § 1.0401 et seq. *In re Matai Title Sotoa*, 8 A.S.R.2d 10 (1988).

Territorial statute prohibits anyone from using a matai title before title has been registered in accordance

with provisions of statute. A.S.C.A. §§ 1.0401 et seq., 1.0414. *I'aulualo v. Siofaga*, 10 A.S.R.2d 26 (1989).

Where family had agreed that two persons would jointly hold matai title, and one of the two co-holders registered the title in accordance with statutory provisions, territorial statute required that the other co-holder be enjoined from using the title. A.S.C.A. §§ 1.0401 et seq., 1.0414. *I'aulualo v. Siofaga*, 10 A.S.R.2d 26 (1989).

A family's establishing a "new" matai title for itself was not illegal until 1969, when the matai title registry was closed. A.S.C.A. § 1.0401(b). *In re Matai title Mulitauaoepele*, 17 A.S.R.2d 75 (1990).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0402 Registering more than one matai title prohibited.

Persons may not register more than one matai title at one time.

History: 1977, PL 15-7.

Case Notes:

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0403 Qualifications for succession to title- Delegate to the U.S House of Representatives, staff members, dependents.

A person not possessing all of the following qualifications is ineligible to succeed to a matai title:

- (a) He must be of at least one-half Samoan blood.
- (b) He must have been born on American soil: provided that a person born of parents who were inhabitants of American Samoa, but temporarily residing outside of American Samoa or engaged in foreign travel, at the date of birth of such child, may, for the purposes of this subsection, be considered as having been born on American soil if:
 - (1) while actually residing in American Samoa and at any time within one year after he attains the age of 18 years, he files with the Territorial Registrar a renunciation, under oath of allegiance to the country of his birth; or
 - (2) he has resided in American Samoa for a continuous period of not less than 10 years prior to the time of filing his application to be registered as the holder of a matai title.
- (c) He must be chosen by his family for the title.
- (d) He must live with Samoans as a Samoan.
- (e) For purposes of this section, the Territory's Delegate to the United States House of Representatives while occupying the post of Delegate, and his dependents, or a member of his staff recruited from this Territory while employed by the Delegate's office, and his dependents, are considered to be continuously residing in American Samoa although physically residing outside of American Samoa.

History: 1962, PL 7-38, 1968, PL 10-61, amd 1981, PL § 1.

Case Notes:

Person succeeds matai title, implies previous title holder. RCAS 6.0101. *Mailo v. Fuimaono*, ASR 757 (1967)

Eligibility requirements for matai title holders. RCAS 6.0101. *Asuega v. Manuma*. 4 ASR 616 (1965)

Qualifications of person to succeed to matai title. RCAS 6.0101. *Vainini v. Ala*. 4 ASR 683 (1965)

Basic qualifications to succeed to matai title. RCAS 6.0101. *Reid v. Talalele*. 4 ASR 458 (1964).

A citizen of Western Samoa, born in that country of parents who were not inhabitants of American Samoa, is ineligible to hold a matai title in American Samoa. A.S.C.A. § 1.0403(a). *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

A person born outside American soil is eligible for a matai title only if both parents were inhabitants of American Samoa and were temporarily residing outside of American Samoa or engaged in foreign travel at the time of that person's birth. A.S.C.A. § 1.0403. *Toilolo v. Poti*, 24 A.S.R.2d 1 (1993).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

Research Guide: For provisions regarding residence requirements succession claimants. See 1.0404.

1.0404 Eligibility to file claim or objection-Record of absent residents-Delegate to the U.S. House of Representatives and staff members.

(a) Except as provided in subsections (b) and (c), no one is eligible to claim or object to the succession to a matai title unless he is a resident in American Samoa for one calendar year immediately preceding the date of the claim or objection.

(b) The Territorial Registrar shall keep a record of the names of those bona fide residents of American Samoa who are absent from the Territory for any of the following reasons:

- (1) attendance at an educational institution;
- (2) service in the United States armed forces;
- (3) medical treatment and recuperation;
- (4) temporary traveling;
- (5) missionary work as a minister.

(c) Any person on such record is eligible to claim or object to the succession to a matai title as if he actually resided in American Samoa.

(d) A person's name shall be recorded upon the petition of 5 adult members of his family. The recording shall be effective for 2 years.

(e) The provisions of subsections (a), (b), (c), and (d) of this section do not apply to the Territory's Delegate to the United States House of Representatives while occupying the post of delegate, and his dependents, or a member of his staff recruited from the Territory while employed by the Delegate's office, and his dependents. For purposes of this section, the Delegate and his dependents or a member of his staff recruited from the Territory and his dependents are considered to be actually residing in American Samoa although physically located outside of American Samoa.

History: 1968, PL, 10-61; 1970, PL 11-88, amd 1981, PL 17-23.

Case Notes:

Generally with a matai title candidate must meet statutory residence requirement by being actually present in American Samoa for a required period and have intent to remain. RCAS 6.0112. In re Matai Title of Fagaima, 4 ASR 83 (1973)

Where both person claiming title and person objecting had resided in California for more than 20 years, neither was entitled to claim, or object to a claim, of title; (and that one of them had registered for as an absent resident 10 weeks after he registered for the title did not entitle him to claim the title). In re Matai Title Afoafouvale. 4 ASR 145 (1975)

Education at Provision that one attending an educational institution can claim or object to a claim of the title could not be used to justify an absence of more than 20 years on the basis of one summer school course In re Matai Title Afoafouvale.4 ASR 145 (1975)

Provision on attending an educational institution does not apply when one is taking a correspondence course while off the island, since the course can also be taken by correspondence while on the island. In re Matai Title Afoafouvale. 4 ASR 145 (1975)

Where a claimant retired from the service in 1966 and did not reside in American Samoa between that time and 1974, when he claimed a title, the service exception did not apply. In re Matai Title Afoafouvale, 4 ASR 145 (1975).

No one is eligible to claim or object to the succession to a matai title unless he has resided in American Samoa for one calendar year immediately preceding the date of the claim or objection. A.S.C.A. § 1.0404. In re Matai Title Niuatoa, 16 A.S.R.2d 25 (1990).

In order to register for a matai title under the absent resident provision, which requires that absence from the Territory in the year preceding the filing of matai claim or counterclaim was due to medical reasons, an applicant must produce more than a cursory and equivocal statement from a doctor. A.S.C.A. § 1.0404(b) (3). In re Matai Title "Fonoti", 20 A.S.R.2d 22 (1991).

Candidates who do not meet the residency requirements of A.S.C.A. § 1.0404 will be, at that time, ineligible to claim succession to a matai title. In re Matai Title "Fonoti", 20 A.S.R.2d 22 (1991).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0405 Filing written claim--Supporting documents.

(a) Any person claiming succession to a matai title shall file with the Territorial Registrar a written claim of succession to the title.

(b) A claim must be accompanied by a certificate from the chiefs of the village to which the claimed title is attached to the effect that the matai title is an old and traditional title of the Samoan people, and a petition signed by 25 blood members of the title claimed. The blood members must be at least 18 years of age and residents of American Samoa at the time the petition is filed. The petition must state that a family meeting was called and held for the purpose of selecting a successor to the title in question, according to the traditions of the family. In the event the family does not have a sufficient number of members qualified as herein required to support the claim, the claimant shall so state in a signed affidavit.

(c) The Territorial Registrar, if not satisfied with the validity of information offered in the petition, shall require proof of age, blood relation to the title in question, residence and the insufficiency of blood members if that is claimed.

History: 1962, PL 7-38; 1968, PL 10-61; 1970, PL 11-117.

Case Notes.

Although RCAS 60104 requires 25 family members to sign petition supporting matai title claim, this is not mandatory if affidavit discloses family has less than 25 qualified members. RCAS 6.0104 In re Matai Title Fagairna, 4 ASR 83 (1973).

Applicant for matai title must show right to succession which implies that title name existed before claim was filed but has been vacated RCAS 6 0104 *Mailo v Fuimaono*, 4 ASR 757 (1967).

Requirements for matai title holder applies in every candidate for title—objectors as well as applicant RCAS 6.0104 *Asuega v. Manuma*, 4 ASR 616 (1965).

An applicant for matai-title registration is normally required to submit, among other things, a "certificate from the chiefs of the village to which the title is attached to the effect that the matai title is an old and traditional title of the Samoan people." A.S.C.A. § 1.0405(b). In re Matai Title *Seva'aetasi*, 19 A.S.R.2d 133 (1991).

Despite a written objection by the leading chiefs of the village, a matai title was ordered to be registered in the applicant name as an "old and traditional title of the Samoan people" when the Territorial Registrar's records pointed to recognition of the title's status in a village prior to its registration, and court cases affirmed the family's landholdings. A.S.C.A. § 1.0405(b). In re Matai Title *Seva'aetasi*, 19 A.S.R.2d 133 (1991).

Regarding the statutory exception for families having fewer than 25 adult, blood family-members, the term "family" is equated with the claimant's or counter-claimant's clan for purposes of testing the validity of matai-title petitions. A.S.C.A. § 1.0405, 1.0407. Registration of Matai Title "*Le'aeno*", 24 A.S.R.2d 117 (1993).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414, *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0406 Notice of claim.

If the Territorial Registrar is satisfied that the claim, certificate, and petition are in proper form, he must give notice of the filing of the claim by posting a notice thereof, in both the English and Samoan languages, on the bulletin board at the front of the High Court and in two other public places.

History: 1962, PL 7-38; 1968, PL 10-61.

Case Notes:

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0407 Counterclaims and objections—Supporting documents.

(a) For a period of 60 days immediately following the posting of notice required in 1.0406, any interested person may file a counterclaim or objection. If the sixtieth day falls on a Saturday, Sunday, or holiday, the next regular business day for the purpose of the section, is considered as the sixtieth day. The Territorial Registrar may not accept any counterclaims or objections filed after the sixtieth day as defined herein.

(b) A counterclaim or objection must be supported by a petition signed by no less than 25 persons related by blood to the title in question. The petitioners must be at least 18 years of age and residents of American Samoa at the time the petition is filed.

(c) The Territorial Registrar, if not satisfied with the validity of information offered in the petition, shall require proof of age, blood relationship to title, and residence of any or all signers of the petition.

(d) In the event the family does not have the number of members qualified as required to support the counterclaim or the objection, the counterclaimant or objector shall so state in a signed affidavit.

History: 1962, PL 7-38; 1968, PL 10-61; 1970, PL 11-117.

Case Notes:

Where prospective matai title holder applies to court for determination as matai, and 2 objectors intervene, 3 persons become candidate for title. *Reid v. Talalele*, 4 ASR 458 (1964).

Objection to a matai title claim was not filed within the sixty days required by statute where the timely original objection was filed and withdrawn by relatives without objector's knowledge and his motion to intervene in the case was not filed until eight years later. A.S.C.A. § 1.0407(a); *In re Matai Title Liua*, 15 A.S.R.2d 80 (1990).

Regarding the statutory exception for families having fewer than 25 adult, blood family-members, the term "family" is equated with the claimant's or counter-claimant's clan for purposes of testing the validity of matai-title petitions. A.S.C.A. § 1.0405, 1.0407; *Registration of Matai Title "Le'aeno"*, 24 A.S.R.2d 117 (1993).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414; *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0408 Certificate of succession to issue if no counterclaim or objection is filed.

If no counterclaim or objection is filed within 60 days immediately following the posting of the notice of a claim, the Territorial Registrar shall register the claimant as the successor to the title claimed, and shall issue to the claimant a certificate stating the date of the registration and that the claimant is entitled to, and is the successor to, the title.

History: 1962, PL 7-38; 1968, PL 10-61; 1970, PL 11-117.

Case Notes:

When only one party remains, there can be no trial of a contested case, and dismissal is appropriate RCAS 6.0106; *In re Matai Title of Lutati*, 4 ASR 10 (1970).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414; *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0409 Disputed claims-Hearing- Determination-Certificate issued when.

(a) The High Court shall hear and determine any disputed claim and after decision shall certify the successor to the title as determined by law to the Territorial Registrar for registration.

(b) The Territorial Registrar, upon receiving the certification of the court, shall issue to the successful claimant a certificate of registration as in the case of undisputed claims.

(c) In the trial of title cases, the High Court shall be guided by the following considerations, in the priority listed:

(1) the best hereditary right, as to which the male and female descendants are equal in families where this has been customary: otherwise the male descendant prevails over the female:

(2) the wish of the majority or plurality of those clans of the family as customary in that family;

(3) the forcefulness, character and personality of the persons under consideration for the title, and their knowledge of Samoan customs; and

(4) the value of the holder of the title to the family, village, and country.

(d) The court shall issue a written decision that must contain finding of facts and conclusions of law on each issue under (c) above.

History: 1962, PL 7-38; 1968, PL 10-61; 1970 PL 11-11 amd 1982, PL 17-43 § 1.

Amendments: 1982 Amended generally: subsection (d) added.

Case Notes.

In re "Tuilefano", ASR (1979).

Proper to discount an issue from consideration where the evidence on that issue is unreliable Tuiagamoa v. Tomasi, ASR (1977).

"The value of the holder of the matai title to the family, village and the country" means the future value of matai title claimant. RCAS 6.0107; In re Matai Title Sala, 4 ASR 21 (1971).

All members of Samoan family enjoy equal rights and privileges under clan system-one clan cannot be "favored" over others in selecting matai. RCAS 6.0107; in re Matai Title Salave'a, 4 ASR 44 (1971).

Statutory requirement that court consider "which" of the majority or plurality of those clans of the family as customary in that family" means that matai candidate must have full support of at least 2 out of 3 clans in 3-clan family. RCAS 6.0107. Asuega v. Manuma, 4 ASR 616 (1965).

Blood daughter prevails over grandson on issue of hereditary right to matai title under Samoan custom RCAS 6.0107; Tuaolo v. Tutogi, 4 ASR 488 (1964).

Where majority of family favors objector as title holder, and only applicant and her children prefer applicant, objector prevails on issue of wish of majority of family in determination of matai under Samoan customs. RCAS 6.0107; Tuaolo v Tutogi. 4 ASR 488 (1964).

In choosing matai candidate, Court will consider forcefulness, character, personality, knowledge of Samoan customs, value to family, village and country, personal demeanor, presence of mind, clarity, speed and correctness of answers, candidness, ability to withstand cross-examination, education, self-confidence, speech and behavior, RCAS 6.0107; Asuega v. Manuma. 4 ASR 616 (1965).

Code prescribes qualifications which person must have to be eligible to succeed to matai title RCAS 6.0107 Taufasau v. Manuma; 4 ASR 947 (1967); RCAS 6.0107; Utu v. Aumoeualogo, 4 ASR 906 (1964). RCAS 6.0107; Reid v. Talalele. 4 ASR 458 (1964); RCAS 6.0101; 6.0107; Veve v. Faatama. 4 ASR 418 (1963).

Statute which lists the priority of criteria with which the Court is to evaluate matai candidates requires only that the Court give more weight to each criterion than to each of those which follow it; some consideration should also be given to the relative margins by which various candidates prevail on each of the four criteria. A.S.C.A. § 1.0409. In re Matai Title Tauala, 15 A.S.R.2d 65 (1990).

When different sides of a family reasonably differ on the identity of original titleholder, court would assess hereditary entitlement of matai title contestants according to each party's closest proven relation to a previous titleholder. A.S.C.A. § 1.0409(c). In re Matai Title "Tauaifaiva", page 13.

In considering statutory criteria for matai titles, court should always be guided by overriding purpose of the statute, which is to preserve Samoan culture. A.S.C.A. § 1.0409; In re Matai Title Ma'ae, 6 A.S.R.2d 75 (1987).

Family tradition empowering senior matai to designate holder of a lesser title within the family would, if proven, be relevant to determination by court of whether candidates had hereditary rights to title, family support "as customary in the family," and value of candidates to the family, village, and country. A.S.C.A. § 1.0409. In re Matai Title Ma'ae, 6 A.S.R.2d 75 (1987).

Rule of heredity that arose in previous trial court decision was not binding precedent when rule resulted from "judicial notice" of Samoan custom that ignored stark variation among different families' practices, rule was stipulated by the parties rather than according to each party's closest proven relation to a previous titleholder. A.S.C.A. § 1.0409(c). In re Matai Title "Tauifaiva", page 13.

Candidate for matai title who had been using the title illegally for several years while objections to his candidacy were pending, would ordinarily not prevail on statutory criterion of value to family, village, and country. A.S.C.A. §§ 1.0409, 1.0414. In re matai Title Muagututi'a, 14 A.S.R.2d 67 (1990).

Where one candidate for matai title proved his fitness to hold the title under three of the four statutory criteria, and the only other candidate knew of the trial date but failed to appear, the candidate who did appear would be held best qualified to hold the title. A.S.C.A. § 1.0409. In re Matai Title Muagututi'a, 14 A.S.R.2d 67 (1990).

Difficulty of assessing family or clan support for candidates for a matai title is compounded by the fact that Samoan families traditionally make decisions not by pure majoritarian democracy but by consensus. A.S.C.A. § 1.0409. In re Matai Title Tauala, 14 A.S.R.2d 83 (1990).

Where one of the competing candidates has illegally undergone traditional ceremonies which made him the matai in the eyes of many family members, some of these members might regard themselves as bound to support him whether or not they believe he is or will be a good matai; it is thus practically impossible to make a fair and accurate comparison of his support with that of a candidate who has not illegally seized such a strategic advantage. A.S.C.A. § 1.0409. In re Matai Title Tauala, 14 A.S.R.2d 83 (1990).

Candidate for matai title who lied under oath about his convictions by military tribunals, and who had deliberately violated numerous court orders, would not prevail on the statutory criterion of forcefulness, character, personality, and knowledge of Samoan custom. A.S.C.A. § 1.0409. In re Matai Title Tauala, 14 A.S.R.2d 83 (1990).

Candidate for a matai title who best satisfied the statutory criterion of hereditary right to the title did so by showing the shortest route of descent from a past title holder, even though such descent was via an adopted side of the family. A.S.C.A. § 1.0409(c). In re Matai Title Iuli, 14 A.S.R.2d 116 (1990).

No candidate for a matai title best satisfied the statutory criterion of the support of the clans where the candidates disagreed on the identities of the original and subsequent titleholders and family meetings considering the candidates ended inconclusively. A.S.C.A. § 1.0409 (c). In re Matai Title Iuli, 14 A.S.R.2d 116 (1990).

Candidate for a matai title who best satisfied the statutory criterion of forcefulness, character, personality, and knowledge of Samoan custom did so based on his long term experience as a comparably ranked titleholder and administrator, which familiarized him with Samoan custom and enhanced his administrative and leadership skills and his ability to fulfill the responsibilities and duties of the title. A.S.C.A. § 1.0409 (c). In re Matai Title Iuli, 14 A.S.R.2d 116 (1990).

Candidate for a matai title who best satisfied the statutory criterion of value to family, village, and country did so based on his familiarity with the demands of office gained by long tenure as a comparably ranked titleholder; his rapport and standing with fellow matai; his credibility; his seniority; his singular commitment to the educational needs of the community as evinced by his long career in education and government; and his ability to settle familial dissension. A.S.C.A. § 1.0409 (c). In re Matai Title Iuli, 14 A.S.R.2d 116 (1990).

Statute which lists the priority of criteria with which the Court is to evaluate matai candidates requires only that the Court give more weight to each criterion than to each of those which follow it; some consideration should also be given to the relative margins by which various candidates prevail on each of the four criteria. A.S.C.A. § 1.0409. In re Matai Title Tauala, 15 A.S.R.2d 65 (1990).

A blood right to a matai title is based on direct descent from the title he claims; no decisions of this Court support a blood right to a matai title solely based on “blood descent” from the titleholder’s sister, nor is such consistent with any of the Court’s formulae employed to determine “hereditary right.” A.S.C.A. § 1.0409 (c) (1). In re Matai Title Mulitauaoepe, 16 A.S.R.2d 63 (1990).

The statutory “best hereditary right” criterion does not require the court to extinguish a family line whenever it appears that a matai obtained his title, prior to the enactment of the statute, for a reason other than blood descent. A.S.C.A. § 1.0409. In re Matai Title Mulitauaoepe, 17 A.S.R.2d 75 (1990).

Since the statutory adoption of the “hereditary right” criterion, the court is not free to award a disputed matai title to a person who is not descended from a previous titleholder. A.S.C.A. § 1.0409. In re Matai Title Mulitauaoepe, 17 A.S.R.2d 75 (1990).

The matai-title statute does not give the court the power to retroactively apply the four statutory criteria to events that happened hundreds or thousands of years ago. A.S.C.A. § 1.0409. In re Matai Title Mulitauaoepe, 17 A.S.R.2d 75 (1990).

The High Court will make findings of fact on the statutory criteria in awarding a matai title when the family had an opportunity to reach a consensus but failed to do so. A.S.C.A. § 1.0409. In re Matai Title Atiumaletavai, 21 A.S.R.2d 88 (1992).

Although the High Court’s matai-title decisions frequently include substantial comparative discussions of title candidates’ qualifications under each of the four statutory criteria, the only legal requirement is a written decision containing findings of fact and conclusions of law on each of the four statutory criteria. A.S.C.A. § 1.0409(c); T.C.R.C.P. 52(a). In re Matai Title “Atiumaletavai”, 22 A.S.R.2d 94 (1992).

In a matai-title case, the court is guided by four statutory criteria: (1) best hereditary right; (2) clan support; (3) forcefulness, character and personality, and knowledge of Samoan customs; and (4) value to family, village, and country. A.S.C.A. § 1.0409(c). In re Matai Title Paopaoailua, 24 A.S.R.2d 7 (1993).

Determining best hereditary right is traditionally guided by the percentage of matai-title candidates blood relationship to a former titleholder, though in unusual cases it may be appropriate to calculate blood relationships from the original titleholders or the nearest common ancestor. A.S.C.A. § 1.0409 (c) (1). Registration of Matai Title “Le’aeno”, 24 A.S.R.2d 117 (1993).

Clan support for matai-title candidates is traditionally measured by consensus and not by a mere numerical majority. A.S.C.A. § 1.0409 (C) (2). Registration of Matai Title “Le’aeno”, 24 A.S.R.2d 117 (1993).

The matai-title criterion of value to family, village, and country seeks to evaluate a candidate’s prospective value to his family, village, and American Samoa as holder of the title, in light of the first three

statutory criteria and his leadership potential and plans. A.S.C.A. § 1.0409(c)(4). Registration of Matai Title "Le'aeno", 24 A.S.R.2d 117 (1993).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

Regarding the criterion of the forcefulness, character, and personality of a matai-title candidate and his knowledge of Samoan customs, factors considered include leadership ability, honesty, education, public service, involvement in church and village affairs, and previous experience as a matai. A.S.C.A. § 1.0409(c)(3). Registration of Matai Title "Le'aeno", 24 A.S.R.2d 117 (1993).

1.0410 Effective date of succession.

No succession to a title may be recognized until the certificate of succession and registration is issued.

History: 1962, PL 7-38 1968, PL 10-61, 1970, PL 11-117.

Case Notes:

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0411 Removal of title for cause—Service of petition—Default—Selection of successor.

(a) A matai title may be removed by the High Court upon a petition for removal filed in the High Court by 25 blood members of the matai's family, over 18 years of age, who at the time of the petition are all serving the matai and family according to Samoan custom.

(b) Service of the petition for removal of the title shall be made in the manner provided in 43.0502 except that the posting of the required notice shall be for 30 days on the bulletin board of the administration building in Utulei and in 2 public places in the village to which the title is attached such notice to be in both the English and Samoan languages.

(c) Proof of service shall be made in accordance with 43.0503.

(d) If no answer is filed and no appearance is made at the hearing of the cause, either in person or by counsel, the court may find the defendant in default and enter judgment for the petitioners without further hearing.

(e) The court shall transmit to the Territorial Registrar a copy of the court's decision in all removal cases and the Territorial Registrar shall follow the Court's decision.

(f) Upon removal of a matai title under the procedures set forth in this section, another matai shall be selected by the family in accordance with the traditions of the family.

History: 1962, PL 7-38; 1968, PL 10-61; and 1973, PL 13-14.

Amendments: 1973 Subsection (a): Amended generally to provide for petition by 25 members over 18 years of age.

Case Notes:

Persons of higher matai title within family are required to serve lesser matai titles, and hence are included among those in "family actively serving the matai" for purposes of RCAS 6.0110(1) *Tuiteleapaga Family v. Filoali'i*, 4 ASR 24 (1971).

Active service for the matai and the family is necessary to have the requisite standing to petition for a matai's removal for cause; however, only family membership is necessary to have standing to petition for the removal of a matai who has been absent from American Samoa for more than one year. A.S.C.A. §§ 1.0411, 1.0412. *Aoelua v. Aoelua Family*, 21 A.S.R.2d 1 (1992).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0412 Removal of title after year's absence—Procedure—Default.

(a) Any matai absent from American Samoa for more than 1 year may be removed of his title upon petition filed in the High Court by any member of the family of the absent matai. Upon presentation of such petition and satisfactory proof of such absence, the Court may, but need not, remove such title. The Court in its discretion may consider the reasons for such absence and the wishes of the family actively serving the matai.

(b) Service shall be made in accordance with subsection (b) of 1.0411.

(c) The Court, in its discretion, shall set the time for hearing of the cause so as to allow sufficient and reasonable time for the matai to appear in his defense, either in person or by counsel.

(d) Failure to appear in person or by counsel, after proper service, shall be sufficient for the Court to find the defendant in default.

History: 1968, PL 10-61.

Case Notes:

Having the discretion to permit an absent matai to retain his title, a court may, but is not required to, consider the wishes of family members actively serving the matai. A.S.C.A. § 1.0412. *Aoelua v. Aoelua Family*, 21 A.S.R.2d 1 (1992).

High Court may remove a titleholder from a matai title upon a petition by any member of his family if the court finds the titleholder has been absent from American Samoa for more than one year. A.S.C.A. § 1.0412. *Alai'asa v. Seigafo*, 17 A.S.R.2d 3 (1990).

High Court may remove a title from a matai upon a petition by any member of his family if the court finds the matai has been absent from American Samoa for more than one year. A.S.C.A. § 1.0412 (a). *Aoelua Family v. Aoelua*, 17 A.S.R.2d 88 (1990).

Absence from American Samoa for purposes of statute allowing the court to remove a titleholder absent from territory for more than one year from his matai title is a different question from whether one is a bona fide resident. A.S.C.A. § 1.0412(a). *Aoelua Family v. Aoelua*, 17 A.S.R.2d 88 (1990).

A matai absent from American Samoa may be removed through a petition process. A.S.C.A. § 1.0412. *Leapagatele v. Nyel*, 17 A.S.R.2d 201 (1990).

Active service for the matai and the family is necessary to have the requisite standing to petition for a matai's removal for cause; however, only family membership is necessary to have standing to petition for the removal of a matai who has been absent from American Samoa for more than one year. A.S.C.A. §§ 1.0411, 1.0412. *Aoelua v. Aoelua Family*, 21 A.S.R.2d 1 (1992).

A matai title bestowed contrary to statute cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0413 Nonrecognition of titles improperly bestowed.

Any matai title bestowed on any person contrary to the provisions of this chapter may not in any way be recognized. This chapter may not have the effect of divesting any person of a title registered before 1 November 1932.

History: 1962, PL 7-38.

Case Notes:

The matai title statute may not divest any person of a title which was registered before November 1, 1932. A.S.C.A. § 1.0413. *In re Matai Title Mulitauaoepele*, 17 A.S.R.2d 75 (1990).

A matai title bestowed recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. *Toilolo v. Poti*, 23 A.S.R.2d 130 (1993).

1.0414 Violation—Penalty.

A person who uses any matai title or permits the use of any matai title in his behalf before the same has been registered in accordance with the provisions of this chapter, or continue to use a matai title after he has been removed from his office by proper proceeding shall be

sentenced as for a class B misdemeanor.

History: 1962, PL7-38, amd 1980, PL 16-90 § 2.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, criminal justice.

Case Notes:

Law provides penalties for persons using matai title without having registered it. RCAS 6.0109; Mailo v. Fuimaono, 4 ASR 757 (1967).

Section makes it a crime to claim a matai title law fully registered in the name of another person Togiola v. Tafesilafai, 4 A.S.R. 2d 54 (1987).

Territorial statute makes it a crime to claim a matai title lawfully registered in the name of another person. A.S.C.A. § 1.0414. Togiola v. Tafesilafa'i, 4 A.S.R.2d 54 (1987).

Territorial statute prohibits anyone from using a matai title before title has been registered in accordance with provisions of statute. A.S.C.A. §§ 1.401 1.0414; I'aulualo v. Siofaga, 10 A.S.R.2d 26 (1989).

Where family had agreed that two persons would jointly hold matai title, and one of the two co-holders registered in title in accordance with statutory provisions, territorial statute required that the other co-holder be enjoined from using the title. A.S.C.A. §§ 1.0401, 1.0414; I'aulualo v. Siofaga, 10 A.S.R.2d 26 (1989).

Candidate for matai title who had been using the title illegally for several years while objections to his candidacy were pending, would ordinarily not prevail on statutory criterion of value to family, village, and country. A.S.C.A. §§ 1.0409, 1.0414. In re Matai Title Muagututi'a, 14 A.S.R.2d 67 (1990).

A matai title bestowed contrary to statue cannot be registered or otherwise recognized; and use of an unregistered matai title is a criminal act. A.S.C.A. §§ 1.0401-1.0414. Toilolo v. Poti, 23 A.S.R.2d 130 (1993).

Chapter 05

HOLIDAYS

Sections:

1.0501 Public holidays.

1.0501 Public holidays.

The following are public holidays in American Samoa:

- (1) 1 January, New Year's Day
- (2) 22 February, Washington's Birthday
- (3) the Friday before Easter, Good Friday
- (4) 17 April, American Samoa Flag Day
- (5) 30 May, Memorial Day
- (6) 4 July, Independence Day
- (7) 16 July, Manu'a Islands Cession Day
- (8) the first Monday in September, Labor Day
- (9) 11 November, Veterans Day
- (10) the 4th Thursday in November, Thanksgiving
- (11) 25 December, Christmas.

History: 1 ASC 951; amd 1983, PL 18-21 § 1.

Amendments: 1983 Manu'a Islands Cession Day added to the section.

Chapter 06

DAYLIGHT SAVING TIME

Sections:

1.0601 Exemption from daylight saving time.

1.0601 Exemption from daylight saving time.

Pursuant to the authority granted by 15 USC 260a(a), all of the territory of American Samoa is exempt from the provisions of such subsection providing for the advancement of time to save daylight, and the Territory of American Samoa shall observe the standard time otherwise applicable under 15 U.S.C. 261-264, as amended.

History: 1967, PL 10-2.